

Overview of US Supreme Court Decision in Kaestner

Revenue Laws Study Committee

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G.S. 105–160.2

- ❑ Taxes trust income if beneficiary lives in NC
- ❑ US Supreme Court held unconstitutional as applied (under Due Process Clause of the Fourteenth Amendment)
- ❑ G.S. 105–160.2 remains facially constitutional and valid in other circumstances
- ❑ US Supreme Court notes NC alone in residency as sole factor (NC disputes)

Kaestner Case Summary

US Supreme Court held trust lacked sufficient connection for NC to tax the trust's income

- ❑ Beneficiary lived in NC
- ❑ Trustee, records, and investments were **NOT** in NC
- ❑ Beneficiary received **NO** trust income
- ❑ Beneficiary had **NO** right to demand income
- ❑ Beneficiary was **UNCERTAIN** to ever receive a specific share of trust income



NC Dept of Revenue Response

- ❑ Sent an informational document request to trusts that timely filed a request for refund
- ❑ Information necessary to determine if Kaestner applies



Fiscal Impact

- Total trust income tax by tax year (as of 12/13/18)
 - 2016: \$85,132,058
 - 2017: \$100,432,417
- Claims for refund
 - \$10.5 million filed



Next Steps

- ❑ Administer under current statute
- ❑ Expand taxation to presence of trustee, trust office, settlor
- ❑ Limit taxation to beneficiary presence plus specific factor(s)